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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/700,125	11/03/2003	Rojelio R. Jimenez	79751 (7327)	3700

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EXAMINER

CHOI, STEPHEN

ART UNIT PAPER NUMBER

3724

DATE MAILED: 09/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/700,125

Applicant(s)

JIMENEZ, ROJELIO R.

Examiner

Stephen Choi

Art Unit

3724

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 27 June 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) 4-6, 8-10 and 12-14 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3, 7 and 11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 August 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☒ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Applicant's election with traverse of Group I, Species B in the reply filed on 27 June 2005 is acknowledged. The traversal is on the ground(s) that no patents are cited to show that the dependent claims are distinct and classifiable into different subclasses. This is not found persuasive because claim 1, the linking claim, is held to be unpatentable over the prior art as set forth below, leaving dependent claims joined thereby without a common inventive feature. Dependent claims recite features that are distinct and separately classifiable as set forth in the previous office action. Regarding Species C, the examiner agrees with the applicant that Species B and C are to the same embodiment and will be examined along with the elected species B.

The requirement is still deemed proper and is therefore made FINAL.

### ***Oath/Declaration***

2. The oath or declaration is defective. A new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required. See MPEP §§ 602.01 and 602.02.

The oath or declaration is defective because: the filing date of the provisional application is incorrect.

### ***Drawings***

3. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "74" has been used to designate both handle and saddle. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to

the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

#### ***Claim Objections***

4. Claim 1 is objected to because of the following informalities: line 6, "adapted to and extend..." is grammatically not understood. Appropriate correction is required.

#### ***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-3, 7, and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chen (US 5,483,858) in view of Bartz (US 5,269,356).

Chen discloses the invention substantially as claimed except for an angle-setting projection on a work-engaging wall and a guide pin secured to the work-engaging wall. Bartz discloses a work-engaging wall (31) having an angle-setting projection. It would have been obvious to one having ordinary skill in the art at the time the invention was

made to employ a work-engaging wall having angle-setting projection as taught by Bartz on the device of Chen in order to facilitate setting a desired angle without resetting an angle adjusting mechanism so as to obtain a more accurate setting. Furthermore, Bartz discloses an extension to prevent the movement the work engaging wall against a backup plate (28). However, Chen teaches use of a guide pin (26) to guide a movable member. It would have been obvious to one having ordinary skill in the art to employ a guide pin on the work-engaging wall of the modified device of Chen as an alternative structure to prevent the sliding movement of the work-engaging wall against the backup plate. Regarding claim 2, the modified device of Chen fails to disclose a retainer on the guide pin. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide a retainer on the guide pin on the modified device of Chen since the examiner takes Official Notice on the use of retainer as old and well known in the art for the purpose of securely retaining an element on a groove. Hempel and Bradshaw show examples of such a retainer. Regarding claim 3, the modified device of Chen fails to disclose indexing marks on the work engaging wall. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide indexing marks on the work engaging wall on the modified device of Chen since the examiner takes Official Notice on the use of indexing marks as old and well known in the art for the purpose of accurately positioning the workpiece on a work engagement surface for cutting. Hurwitz shows one example of such a device.

### ***Conclusion***

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7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen Choi whose telephone number is 571-272-4504. The examiner can normally be reached on Monday-Friday 9:00-3:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allan Shoap can be reached on 571-272-4514. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

sc  
8 September 2005

  
**STEPHEN CHOI**  
**PRIMARY EXAMINER**